<div align="center">REMARKS</div>

Claims 1, 3-17, 20, 22, 24, 26, 28, 30-32, 34-48, 51, 53, 55, 57, 59, 61, 62, 69, 70, and 83-85 are now pending in the above-captioned application.

RESTRICTION REQUIREMENT

As the Examiner indicated, claims 1-62 and 69-70 were elected for further prosecution in response to the RESTRICTION REQUIREMENT made during the informal telephone interview of June 12, 2007. By the present amendment, application has cancelled the non-elected claims and reserves the right to prosecute such claims in a Divisional Application. Note that the Office Action appears to contain a slight typographical error in that it lists claims 63-68 and 71-81 as being withdrawn from further consideration. It is presumed that the Examiner meant to include claim 82, as this claim was listed as Group IV in the restriction requirement.

CLAIM OBJECTION

Claim 58 was objected to by the Examiner due to a minor error. The present Amendment cancels claim 58, rendering this rejection moot.

REJECTION UNDER 35 U.S.C. §112, Second Paragraph

Claim 31 was rejected under 35 U.S.C. §112, second paragraph due to some minor informalities which have been corrected by the above amendment.

In particular, claim 31 was rejected to the lack of proper antecedent basis for the term "encrypted data blocks." Claim 31 has been amended to depend from claim 8, which provides antecedent basis for this term. New claims 83-87 have been added along the lines of claim 31, but depending from claims 9, 14, 15, 22, and 28, respectively, all of which also provide support for encrypted data blocks.

As such, the §112 rejection has been overcome.

REJECTION UNDER 35 U.S.C. §102

Claims 1, 3, 6, 10, 12, 32, 34, 37, 41, 43, and 69 were rejected under 35 U.S.C. §102(b) as being anticipated by Botti, Published U.S. Patent Application 2001/00037454. Applicant respectfully traverses this rejection.

In order to be complete, an anticipation-type rejection must contain two elements:

1. The reference must qualify as "Prior Art" under one of the sections of 35 U.S.C. §102; and

2. The reference must explicitly teach *ALL* of the features of the claimed invention.

There are three primary elements to independent claims 1 and 32 of the present application. For the first two elements, the Office Action cites portions of the Botti reference, quoting verbatim from portions of the reference and providing paragraph number citations. Applicant does not agree that the portions cited by the Examiner from Botti "read on" applicant's claim elements, however, that issue is moot as the third element of claims 1 and 32 is clearly not shown in Botti, by the Examiner's own admission.

For the third element of claims 1 and 32, the Office Action does not cite any portion of Botti to show the claimed feature. Rather, the Office Action argues that the feature is "inherent." Applicant disagrees with the rejection on both procedural and substantive grounds.

First of all, a proper §102 rejection should teach all of the elements of the claimed invention and not rely upon inherency or other arguments. The feature is either in the reference or it isn't. There is no "inherency" in a §102 rejection.

Procedurally, the proper way to formulate such a rejection is as a §103 rejection, taking Botti in view of *Official Notice*. Since the feature of the claim is not in the reference, the rejection should combine another reference with the primary reference and provide a motivation to combine. If the Patent Office believes the feature to be "inherent" then the Examiner should take *Official Notice* of that feature.

Applicant respectfully requests that the Examiner cite a reference showing all of the alleged "inherent" features in this §102 rejection, and provide a proper motivation to combine such features with the Botti reference, or withdraw the rejection.

However, even if the rejection were recharacterized as a §103 rejection and such a reference were provided, no legitimate motivation could be provided to combine such a feature, **as Botti explicitly teaches that the archived data may be altered by the user.** One need look no further than the abstract:

"The digital file management system and method of the present invention provides a processing service that may be located remotely on a computer network that receives digital files from users and performs file identification, authentication and verification, including time and digital signature. The system and method may include the remote processing and storage of file information such that the user does not need to maintain any application specific software at the user's local site. The system and method may record additional independent data with each stored file including: a "true date" gleaned from a secure clock which is not settable by the user (the Authentidate.TM.); a number derived from a cyclic redundancy code (CRC) algorithm or checksum routine against the file; and a CRC or checksum derived from the "true date", (the "date CRC"). This additional data may be recorded within each digital file after the file is acquired. If the file is altered after the recording of the additional data, recalculation of the CRC on the altered file will not match the original CRC recorded within it. **Thus, that the file was altered can be detected. Likewise, if the true date is altered in any way, recalculation of the date CRC will similarly reveal this fact.** The CRCs can be checked and verified at any time. If the recalculated value matches the recorded value, the file can be verified as being recorded on the specified date and has not been altered since that time. (Botti, Abstract, emphasis added)

Botti explicitly anticipates that a user may alter a file once it is stored on the digital file management system, and provides a way to detect this alteration. If it is impossible to alter a file on the digital file management system, even by the user (as the Examiner argues is "inherent") then what would be the purpose of detecting such alterations? It is clear that this feature is not "inherent" at all. One cannot argue that making the file unalterable is "inherent" when the reference explicitly teaches away from such a feature. If Botti provided a means for preventing a file from being altered, he would have no need for his file alteration detection scheme.

Moreover, the interpretation set forth in the Office Action places more weight on the common understanding of the word "archive" than is appropriate in this patent application. The word "archive" may imply permanence, but in the present invention, such a "paper-record" concept is consistently modified by the concept that computer archives are commonly under the control of a user and that a "non-rescindable" archive or storage is importantly different from the common understanding of the unmodified word "archive". In the present invention "permanence" is under the control of the user, as modified by the period of "non-rescindibility."

The interpretation set forth in the Office Action neglects the explicit discussion of storage as being "non-rescindable" in the claims and in the supporting specification. Storage of a data-block could not be "non-rescindable" if it could be deleted or altered by the user at any time. The concept of "non-rescindable" would in that case be meaningless.

In the Prior Art cited in the Background of the present application, it is noted that Prior Art PC and Web diaries exist, but every one of which applicant is aware of allows the user to immediately delete or edit any past entry (as is the case in Botti). Certainly not "archived for at least an initial time period." Thus, it is not "inherent" in the digital arts that a record be non-rescindable, as set forth in the present invention.

In the present invention, the archive is on a computer and in such systems it is common to immediately, on second thought, to delete an "archived" file immediately after first saving it. In this context the idea that there is an "inherent" initial time period implicit in the very concept of archive in this application, misreads the discussion. The concept of "non-rescindable" storage makes it clear that such an immediate "second thought" deletion or modification would not be allowed in the diary system for which patent protection is sought.

Botti also clearly implies that the data are not kept "non-rescindably" when he writes:

> "According to a preferred embodiment of the invention, the Authentidate server 906 may maintain a digital copy of the file as submitted in its entirety. The file could be saved in association with the log of information to be kept on the file such as the ID number, the time stamp and the digital signature. **Alternatively, the digital document itself is not saved nor maintained by the Authentidate server 906.** After the document has been processed in order to derive its digital signature, the document may be returned or deleted. **For this alternative, a digital copy of the document is not maintained at the Authentidate site and the user is responsible for maintaining a digital copy of the document.**" (Botti, Paragraph [0034], emphasis added)

Thus, in Botti, the only copy is in the possession of the user; he is free to delete it. Also, it would be standard practice, perhaps not even needing comment, to allow the user to delete a data block if it had been retained by the archive, as is explicitly allowed in the Sykes and Cane patents cited by the Examiner, as is discussed further below.

Thus, there does not appear to be any "inherent" permanence of records, either in Botti or in other Prior Art references. On the contrary, Botti and the other Prior Art appear to teach away from this idea, instead allowing for altering of records. In the case of Botti, the alteration of the record may be detected, but not prevented. Moreover, it does not appear that Botti has any means of retaining the original record.

Thus, there is no "inherency" to support an *Official Notice* combination rejection. And moreover, since Botti explicitly teaches that his records may be altered (and discloses a technique for detecting such alterations) there is no motivation to combine such *Official Notice*, if it did exist, with Botti.

With regard to claims 3, 34, and 69, The Examiner admits that Botti does not teach a means for retrieving data blocks from the archive. Applicant's comments regarding "inherency" are repeated here. The examiner is correct that retrieving a copy from the archive is not new. However the claim includes the additional limitation of retrieving a copy from an archive with "non-rescindable" storage, a feature neither taught nor suggested by the prior art.

With regard to claims 6 and 37, while Botti does teach a form of time-stamping, he does not do so in combination with an non-rescindable archive as in the present invention. In the present invention, the time-stamping is done in a third place, whereas Botti has this done at the Authentidate server. The Authentidate server, or the user, is the only place anything is ever done in the Botti application.

With regard to claims 10 and 41, while generating filing keys might be known in the art, the combination of the filing keys in conjunction with Non-rescindable storage is neither taught or suggested by the references. Moreover, claims 10 and 41 have been amended to recite that the filing keys are generated at a location different from the user input and the archive. The independence of the filing key source, as well as the concept of spreading components of the invention over the web are neither taught nor suggested by the Prior Art. Thus, claims 10 and 41 are further distinguishable over the art of record.

With regards to claims 12 and 43, The Examiner admits that Botti does not teach searching filing keys to select data blocks for retreival. Applicant's comments regarding "inherency" are repeated here. Certainly using keys to search by itself is known in the art. However, here again this feature is claimed in combination with the non-rescindable storage limitation. In addition, claims 12 and 43 have been amended to recite that the searching of filing keys is performed at a location different from the user or archive.

Thus, all of the limitations of claims 1 and 32 are neither taught nor suggested by Botti. As claims 3-17, 20, 22, 24, 26, 28, 30-32, and new claims 83-87 depend, directly or indirectly, from claim 1, Applicant submits that all of claims 1, 3-17, 20, 22, 24, 26, 28, 30-32, and 83-87are distinguishable over Botti. Similarly, since claims 34-48, 51, 53, 55, 57, 59, 61, 62, 69, and 70 depend, directly or indirectly, from claim 32, Applicant submits that all of claims 32, 34-48, 51, 53, 55, 57, 59, 61, 62, 69, and 70 are also distinguishable over Botti.

Claims 1 and 32 have also been amended to include the limitation of claim 2, wherein the initial period for non-rescindability is negotiated with the archive, a feature neither taught nor suggested by Botti.

REJECTION UNDER 35 U.S.C. §103

Claims 2, 18-20, 23, 25, 31, and 33 were rejected under 35 U.S.C. §103 as being unpatentable over Botti in view of Sykes. Applicant respectfully traverses this rejection.

In order to be complete, an obviousness-type rejection must contain two elements:

1. The references, as combined, must show all the features of the claimed invention (all elements rule); and

2. A *proper* motivation to combine the references must be provided.

In this instance, neither element is present.

Applicant's comments concerning Botti are incorporated herein. As noted previously, **Botti explicitly teaches that the archived data may be altered by the user.** Thus, regardless of the teachings of Sykes, or any other reference, there is no motivation to combine with Botti.

Sykes provides for a delete function apparently at any time. It is easy to imagine the utility of a delete function with Syke's system. For example, if a sender sends an e-mail, they may have second thoughts about sending the email, or may want to revise it. With a delete function the email may be "taken back" and hence, likely never delivered.

But with a Diary, by analogy with a Diary written in ink, a delete function is not desirable. A Diary is one of the few, perhaps the only, digital archives for which it is desirable to not have a Delete function. Hence purposefully not having a Delete function has not been claimed in archive-related inventions here-to-fore.

Sykes recites:

"The email message remains stored with the third party archiving and verification

provider for a time determined by the sender's user profile, which was established at the time the sender opened its account, as from time to time amended. Alternatively, the user could be allowed to select the time for storage at the time the message is sent. The user can also extend the time for storage later, as described below. The third party verification provider preferably provides the sender with access to the stored email messages via a web browser, **allowing the sender to manage the stored messages, deleting unneeded messages**, extending the storage time for messages, and requesting verified copies of messages." (Sykes, Col. 6 lines 7-19, emphasis added)

"A search button is also provided, which the user can click to execute the selected search. An example of the search results page is shown in FIG. 9. **The Search Results page provides links to "Read" and to "Delete" each message displayed on the page.** If the user clicks on the "Read" link, the message is displayed, together with a warning that a printout could have been modified. An example of such a page is shown in FIG. 10." (Sykes, Col. 7, lines 10-18, emphasis added)

"As shown in FIG. 10, on the display page of an archived email, **three links are provided: "Delete This Message"**, "Get a Notarized Copy", and "Extend This Message". The "Delete This Message" link causes the message to be deleted. **FIG. 11 shows an example of a page that might appear when the "Delete This Message" link is clicked**." (Sykes, Col. 7 lines 19-24, emphasis added)

Note that in Figure 11 of Sykes, there is a message which says "By pushing the "Delete Message button, you are deleting the message from our database and our local copy. This message will no longer be accessible by you. Please use with caution."

Thus, it is clear that Sykes does not fix the problem with the underlying Botti reference. In particular, Sykes does not teach or suggest a non-rescindable archive, but in fact, teaches that entries may be deleted at will.

With regard to claims 18 and 49, the Office Action argues the feature of appending the digital signature to data blocks is "obvious" but again fails to show where this feature is taught or suggested in the Prior Art references. Thus, a *prima facie* case of obviousness has not been made. Applicant notes that the digital signature is computed under user control at a web location other than at the user or the archive. However, these claims have been cancelled and the rejection is now moot.

Regarding claims 19 and 50, these claims have been cancelled and the rejection is now moot.

With regard to claims 20 and 51, The Office Action argues that the feature of storing the time-stamp **as an additional non-rescindable data block** with the one or more data blocks in the remote archive storage means is shown in both Botti and Sykes. As noted previously, however, these references fail to teach or suggest ALL of the features of the claimed invention and moreover, there is no motivation to combine these references. Moreover, while these references discuss time-stamping in general, they do not teach or suggest storing this time-stamp as an additional non-rescindable data block as set forth in the claims.

With regard to claim 52, this claim has been cancelled and the rejection is now moot.

With regard to claim 23, this claim has been cancelled and the rejection is now moot.

With regard to claim 25, this claim has been cancelled and the rejection is now moot.

With regard to claim 31, the Office Action argues the feature of a decryption means is "obvious" but again fails to show where this feature is taught or suggested in the Prior Art references. Thus, a *prima facie* case of obviousness has not been made. Either a secondary reference teaching such a feature should be provided and a proper motivation to combine be shown, or the rejection should be withdrawn.

Claims 4-5, 7,11,13,35,36, 38, 42, 44, and 70 were rejected under 35 U.S.C. §103 as being unpatentable over Botti. Applicant respectfully traverses this rejection.

A single-reference obviousness-type rejection is problematic. A proper §103 rejection should take two (or more) references, and combine them with a proper motivation to combine (*Graham v. John Deere*). A single-reference S103 rejection is an admission that the single reference fails to teach or suggest all of the claimed elements of the invention, without providing any secondary reference for the missing elements.

Procedurally, the proper way to formulate such a rejection is as a §103 rejection, taking Botti in view of *Official Notice*. Since the feature of the claim is not in the reference, the rejection should combine another reference with the primary reference and provide a motivation to combine. If the Patent Office believes the feature to be "inherent" then the Examiner should take *Official Notice* of that feature.

Applicant respectfully requests that the Examiner cite a reference showing all of the alleged "obvious" features in this §103 rejection, and provide a proper motivation to combine such features with the Botti reference, or withdraw the rejection.

Applicant's comments concerning the Botti reference in connection with the §102 rejection are repeated here. As the claims rejected are dependent from the amended independent claims, applicant submits that these claims are also allowable over the art of record.

Claims 8-9, 14-15, 39-40, and 45-56 were rejected under 35 U.S.C. §103 as being unpatentable over Botti in view of Cane. Applicant respectfully traverses this rejection.

Cane, also explicitly contemplates that archival storage is rescindable. As set forth in the SUMMARY OF THE INVENTION in Cane, Cane recites "Finally, when an item **is to be deleted**, a deletion instruction implicating a particular file is issued to the archive server."

From the DETAILED DESCRIPTION of Cane: "File deletion involves searching the tape index disk file 40, for the entry corresponding to the file 10 marked for deletion. Rather than retrieving the key and volume, however, the encrypted key 44 is deleted and the storage area in the tape index disk file 40 overwritten with zero values. This overwriting is required to avoid future access to the encrypted key 44 through use of a sector level disk access, as many file systems merely flag a deleted area as available, and data physically remains unaltered until a subsequent write needs the available space. Elimination of the encrypted key effectively precludes future access to the contents of the archived file stored on magnetic tape without requiring physical modification to the archive volume; only the encrypted key is deleted."

Thus, in Cane, the complete entry is effectively deleted from the archive even though only the encryption key is physically deleted. Archival storage has always been not non-rescindable by nature. Consider the days when computer tapes were stored with archival storage. Any tape could at any moment, from the moment of first unloading, have been returned.

Thus, it is clear that Cane does nothing to correct the defects in the underlying Botti reference, and since both references do not teach or suggest a non-rescindable archive, they fail, even in combination, to recite all of the elements of the present invention as claimed.

With regard to claims 8, 15, 40, and 46, applicant's remarks concerning inherency are repeated here. The Office Action admits that Botti and Cane do not teach the features of these claims, and thus a *prima facie* case of obviousness has yet to be made. Applicant requests that a reference teaching the missing features be provided, along with a proper motivation to combine, or the rejection dropped. Applicant makes a similar request in all instances of the Office Action were missing features are not shown in the references and are alleged to be "obvious" or "inherent."

Claims 16-17 and 47-48 were rejected under 35 U.S.C. §103 as being unpatentable over Botti in view of Biji. Applicant respectfully traverses this rejection.

The Biji reference is applied to show voice recognition and speech-to-text conversion as set forth the dependent claims 16-17 and 47-48. Applicant is not claiming to have invented speech recognition or speech-to-text conversion by itself.

Biji does not cure the defects in the underlying Botti rejection – namely the use of a non-rescindable archive, and thus, since claims 16-17 and 47-48 depend from amended claims 1 and 32, they are still distinguishable over the art of record.

Claims 21-22, 24, and 26-68 were rejected under 35 U.S.C. §103 as being unpatentable over Botti and Sykes as applied to claim 2, further in view of Cane. Applicant respectfully traverses this rejection.
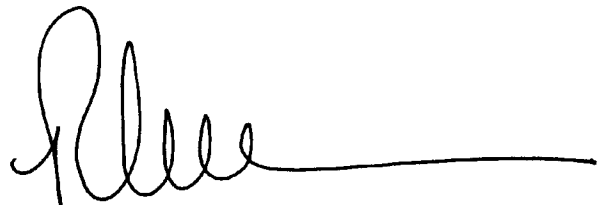
Applicant's previous comments concerning these references are repeated here. As previously noted, the independent claims have been amended to incorporate the limitation of a non-rescindable archive, a feature which is not taught in any of the references. Thus, since these references fail to teach all of the limitations of the independent claims, the rejection fails.

CONCLUSION

The independent claims recite the limitation of a non-rescindable archive, a feature which is not taught in any of the references. Thus, since these references fail to teach all of the limitations of the independent claims, the present claims are now in condition for allowance. An early Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees associated with this communication, including patent application filing fees and processing fees under 37 C.F.R. § 1.16 and 1.17, or credit any overpayment to **Deposit Account No. 50-1393.**

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